

**STRATEGIC PLANNING COMMITTEE**  
**UNITED STATES BANKRUPTCY COURT**  
**SOUTHERN DISTRICT OF NEW YORK**

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United States Bankruptcy Court  
Southern District of New York

Hon. James L. Garrity  
United States Bankruptcy Court  
Southern District of New York

Hon. Jeffrey H. Gallet  
United States Bankruptcy Court  
Southern District of New York

Hon. Arthur J. Gonzalez  
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**REFLECTIONS ON FOURTH ANNUAL STRATEGIC PLANNING**  
**SEPTEMBER 29 - 30, 1999**

**MISSION STATEMENT**

**The purpose of the United States Bankruptcy Court for the Southern District of New York is to provide, economically, a fair, consistent and an effective forum for the protection and marshaling of estate assets, the discharge or adjustment of debts, and the timely distribution of property or securities, in accordance with applicable law.**

**INTRODUCTION**

Strategic planning identifies opportunities for growth and development presented by social, political, and economic trends that will help the court better fulfill its mission and purpose while assuring its stability independent of staff turnover and managerial changes. The participants in the process, the Strategic Planning Committee, are a cross-section of the court's staff and its constituents. Strategic planning has been a continuing collaborative effort among judges, clerk's office staff, representatives of the United States Trustee and United States Attorney and members of the bankruptcy bar. This year, for the first time, court staff and constituents from White Plains and Poughkeepsie joined the Manhattan group for a district-wide strategic planning endeavor. Begun in August 1996, with the ongoing sponsorship and support of the Federal

Judicial Center, strategic planning has enabled this court to mold itself to fit a preferred future within the bounds of available economic resources.

Identifying future trends is a difficult, yet critical, part of the process. We were fortunate this year to be able to draw upon not only our own resources, but two national studies prepared by other federal courts (in cooperation with the Federal Judicial Center) which analyzed policy, economic, social and technological changes affecting the federal judiciary nationwide and, to some extent, society at large.

The product of the committee's labor is the strategic plan, below, which identifies those changes in policy and procedure that will maximize future opportunities. Each goal defined by the committee represents a new means of realizing one or more of the court's core values - i.e., those values to which we are committed independent of external pressures, influences, and changes. (Attached to this report is Chief Judge Tina L. Brozman's "State of the Court" report. This was disseminated to the Committee in advance of the strategic planning session. It described the progress of the court over the past year and provided the foundation for this year's strategic planning effort.)

## **THE PROCESS**

The strategic planning process began, as is customary, with a review of and recommitment to the court's core values and principles. The values by which the court has been and continues to be guided are:

- Competence, courtesy and professionalism of judges and court staff
- Fairness and impartiality in the administration of cases
- Consistency of approach

- Economy and cost-effectiveness in approach
- Responsiveness to the needs of constituents

The Bankruptcy Court for the Southern District of New York is in a uniquely advantageous position, strategically speaking. It has forged new ground in the adjudication of business cases, both domestic and cross-border, and it has pioneered technology which allows for the electronic filing and viewing of court documents via the Internet. Additionally, the court has engaged in regular self-appraisal with significant input from its constituents through surveys conducted in extensive, confidential personal interviews and encouraging the bar to assist in developing and promulgating guidelines for local practice. The court has also produced training and educational programs, internally for the court family and externally, both on and off site, for its constituents.

## **THE PLAN**

To realize a vision of the future, it is necessary to establish areas in which successful achievement is crucial. These areas pinpoint where the court must focus its resources to accomplish its mission. This year they include: Dispute Resolution, Processing and Disseminating Information, and Education.

**In the area of Dispute Resolution, the following goals were set:**

### **Goal 1**

Chapter 7 trustees are to file final reports in business and individual asset cases (excluding cases involving a personal injury claim) within 18 months of filing or conversion to a chapter 7 case.

**Strategy:**

- 100% encouragement by judges in use of mediation as the preferred method of settlement for adversary proceedings filed in connection with chapter 7 cases, with a resultant 50% utilization of mediation (target date: June 2002).
- Development and use of the Internet as a vehicle to value and liquidate chapter 7 assets (target date: June 2002).

**Responsible Parties:**

- Kathleen Farrell for expanding education of the pro bono mediation panel.
- Diana Adams and Carolyn Schwartz for educating panel trustees in utilization of mediation.
- Chief Judge Tina L. Brozman for encouraging 100% referral of chapter 7 adversary proceedings to mediation.
- Chief Judge Tina L. Brozman for educating the bench as to the availability of negotiated/flat fee mediation.
- Vito Genna and Carolyn Schwartz for establishing a web site listing chapter 7 assets for sale.

**Goal 2**

Ninety percent of all calendared hearings, for which all parties are present and ready to proceed, to commence within thirty minutes of the scheduled hearing time.

**Strategy:**

- On the afternoon prior to a scheduled hearing time, the judge's chambers, based on lawyer-supplied information, will clarify the exact time of the hearing. The times will

then be posted on the court's web site, with e-mail notice to all interested parties who are registered. (Cooperation from attorneys will be necessary in assuming responsibility for being ready to appear at the designated time.)

**Responsible Parties:**

- Judge Garrity for designing steps necessary to implement the plan.
- Chief Judge Brozman for presenting the plan to the Board of Judges.
- Cecelia Morris for publicizing the program to the bar.
- Volunteer judges for piloting the plan.

**In the area of Processing and Dissemination of Information, the following goal was set:**

**Goal**

Revamp the telephone system to facilitate access to current information, allow for ready access to court personnel, be capable of expansion to meet growing needs, and include quality speaker phones in the courtrooms and conference rooms (target date: final installation and testing by October 2003)

**Strategy:**

- Conduct a study to determine exactly what information court users wish to access via the telephone system.
- Research available systems to best meet those needs.
- Conduct a survey of newly installed innovative telephone systems in other courts and private companies noted for high quality customer service.

**Responsible Parties:**

- Kathleen Farrell and Vito Genna to survey users for their needs and to research system capabilities and new equipment costs. (target date: April 2000)
- Judge Adlai Hardin to draft uniform procedures for telephonic hearings.
- Chief Judge Brozman to present telephonic procedures to Board of Judges.

**In the area of Education, the following goal was set:****Goal:**

Expand the program of informing, training and assisting lawyers and creditors in the use of court systems, including but not limited to the electronic case filing system.

**Strategy:**

- Develop standing notices, users' manuals, and enhanced services for court constituents.
- Continue to improve and market the electronic case filing system.
- Shift the emphasis from a work product of pushing paper to that of providing service.
- The Clerk's Office's staff, in cooperation with the United States Trustee's office, will develop an informational pamphlet for distribution with the §341(a) notice.
- A court-wide customer service training and initiative.
- Ongoing integration of the principles and practices of the Learning Organization to support individual and organizational development.
- Continuous updating of the electronic case filing users manuals (both internal and external versions).

- Development of a computerized EPSS system (Electronic Performance Support System) to help court staff stay abreast of current information.

**Responsible Parties:**

- Kathleen Farrell for preparing user manuals.
- Jeanne Brennan for heading up the customer service initiative.
- Hal Jacobson for overseeing electronic case filing training in Manhattan.
- Milton Aguila for overseeing electronic case filing training in Poughkeepsie.
- Marlene Guercy for overseeing electronic case filing training in White Plains.
- Vito Genna for developing an electronic performance support system.
- Jan Maslow for consulting as to application and development of principles and practices of the Learning Organization.

**Conclusion:**

This year's strategic planning has been reported by some of the members of the committee as the best one ever, which was particularly gratifying since all three court divisions and representatives of the local bar for each participated. The process was premised on the knowledge that the court is shifting from a "9 to 5" environment to one that will service a global network of insolvency practitioners and judicial officers on a 24-hour basis, 7 days a week.

Contrary to what had been expected, the increase in the court's reliance on technology is actually taking us in the direction of more personal interaction between and among judges, staff, attorneys, and trustees, both locally and around the world. At the same time, the court has afforded greater flexibility to those relationships by expanding the use of telecommunications to

include anything from teleconferencing for discovery issues to video conferencing for a joint trial involving judges in Canada and the United States.

This year's plan is an affirmation of the court's dual intentions to move forward technologically while providing the utmost support and service to our constituency, foreign and domestic.



UNITED STATES BANKRUPTCY COURT FOR THE  
SOUTHERN DISTRICT OF NEW YORK

STATE OF THE COURT FOR  
STRATEGIC PLANNING - SEPTEMBER 29, 1999

The United States Bankruptcy Court has gone through a metamorphosis during the past year due in large part to two things: the complete transition to electronic case filing ("ECF") (see attachment "A" for details) and a year-long pursuit to becoming a learning organization (see attachment "B" for details). The court "family" has changed not only the way we do business but the way we interact with each other. A technology which was at first perceived as something which might distance us from our constituents has proven to be quite the opposite. In fact we have found we are now in more constant and close communication with each other and the attorneys who practice here than before the advent of ECF.

Employees of the court have been taught to be trainers for the electronic case filing system. They have conducted regular classes at the court and have gone to law offices to coach firms through their first attempts at electronic filing. The behind-the-scenes assistance offered on the court's two help lines and at informal meetings has also been instrumental in getting all of the players on board. Both external and internal users have been actively involved in making the transition to the new system work.

A *pro se* handbook is nearing completion and will be available for distribution before the end of October. The two pamphlets prepared to aid filers, debtors and creditors, through the Intake and Records Departments have been revised to include instructions for electronic filing and other revisions to procedures.

Chambers have also changed the way they operate. The board of judges has agreed to eliminate individual chambers' rules in the interests of uniformity. Electronic case filing has immersed chambers' staffs in the total process. They are now involved in conforming orders, converting them to .pdf format and sending them electronically to case administration for docketing. Judges, law clerks, courtroom deputies and judicial assistants no longer have to look through massive files for a particular document, they merely point and click and can view any document in any case at any time. To simplify the filing and retrieving of documents electronically, the board of judges has also agreed to permit relevant excerpts of lengthy exhibits to be filed without jeopardizing the filer's right to produce full copies later at a court hearing.

Mountains of paper have been replaced by smaller mountains of recyclable computer discs. This transition had a human cost, however. A new world was being created and there was uncertainty as to exactly how this new world would affect each employee personally. A transition team was formed to address the concerns that were being expressed.

Becoming a learning organization has helped us to deal with the diverse emotions being expressed and to recognize different perspectives. It has forced management to take a new look at the employees and assess how to best utilize the talents of each. Some employees were exceptional trainers and demonstrated skill in putting together training classes for attorneys, trustees, and their co-workers. Others demonstrated an ability to walk people through tasks over the telephone, while others showed skill at helping each other and individual attorneys who need assistance scanning or preparing documents for electronic filing.

The paper in the records room has already declined. The shipment of closed case files made to the National Archives in 1999 was 1,958 boxes; in 1998, the shipment was 1,411 boxes. This included files from all three offices of the Southern District. The increase in closed files is due in part to the push made by the court during the past year to close cases rather than move them to the electronic case filing system. It is expected that as the impact of electronic case filing gains momentum in all three offices, this number will eventually decrease.

We are fast becoming a highly interactive organization, changing our focus from administration of paper to education, coaching and monitoring the quality of the end product. Since attorneys are filing documents directly from their offices and creating their own docket entries, the clerk's office and the court are now responsible to ensure that entries and their linkage to other entries on the docket are correct and that appropriate fees are collected, whether paid by the attorney's credit card, check, cash or money order. This quality control is important because the electronic case filing system is capable of running specialized reports which track cases and financial information dependant on the integrity of the information entered into the system.

As the entire court is changing so rapidly, it is incumbent upon the judges and management to be cognizant not only of implementing the requisite procedural changes, but also to be aware of the impact those changes are having on all judicial and clerk's office staff, as well as on the attorneys and trustees with whom the court interacts. Nor can one ignore the impact of these changes on debtors. When our debtors sign the release empowering their attorneys to file their petitions on the Internet, they are literally consenting to making their personal information available to all the world by the click of a mouse.

Over the past year we have been swept up in the rapid change in the way we do business. The paradigm has shifted with the ever-increasing momentum of electronic case filing and the learning organization. There is no turning back. Where do we go from here?

## **UP-DATE ON THE FEDERAL COURT'S ELECTRONIC CASE FILING PROJECT**

**Prepared for Strategic Planning 9/29-30/99**

On August 23, 1999, the Director of the Administrative Office announced that the Electronic Case Filing System, "the electronic system", will replace most existing case management programs currently used in courts throughout the nation. The electronic system is now 90% implemented in the Bankruptcy Court for the Southern District of New York, one of the leading courts that collaborated with the Administrative Office in developing it. The most distinctive feature of the electronic system is that it allows for original documents to be filed in an electronic format, by way of the Internet.

Early this year, a national project team consisting of judges, clerks and court managers studied several alternatives to the electronic system, including purchasing and modifying existing commercial products. Additionally two studies conducted by two independent groups, Performance Engineering Corporation and Booz-Allen & Hamilton, Inc. compared and contrasted the electronic system with other systems using selection criteria such as risks, costs, existing product functions, ease of use, ease of implementation, time-to-market, and the stability of the product provider. Work is now underway by the Administrative Office to complete development of the electronic system and make it available to all federal courts. A three year rollout period is slated to begin in fiscal year 2000 (beginning October 1, 1999).

As one of the original prototype courts since 1995, the Southern District Bankruptcy Court has been in the process of implementing the electronic system in

stages, investing multiple resources of staff and equipment including developing extensive training programs for attorney users. All new pending chapter 11 cases were opened on the electronic system beginning in January 1998. Throughout 1998 and the first seven months of 1999, the court moved (with a few exceptions) pending chapter 11 cases onto the electronic system. A selected group of attorneys who regularly represent chapter 7 debtors and a group of chapter 7 trustees began the initial work required for receiving all chapter 7 petitions via the Internet.

As of September 1, 1999 all chapter 7 cases are being filed on the Electronic Case Filing System. On October 1, 1999 all chapter 13 cases will be filed on the Electronic Case Filing System. In all new cases registers of creditors and proofs of claim will also be available on the electronic system as of October 1.

The Electronic Case Filing System accepts all word processing software products that translate into non-changeable Portable Document Format "PDF." Most new versions of word processing products have the option to save a document in PDF. For the electronic system the court uses Netscape Navigator as a web browser and Adobe Acrobat to "read" and "write" the PDF captured electronic document; attorneys using the electronic system will need to add those tools to their computers. The Adobe Acrobat reader is free. The writer has been specially priced for attorneys. They are available at [www.adobe.com](http://www.adobe.com) or 888.502.5275. Netscape Navigator is free and available at [www.netscape.com](http://www.netscape.com).

Prior to filing a document it is incumbent upon attorneys to assure that the document is complete. A completed document is written, cite-checked, blue-booked and proofread. The signature of the attorney is indicated by a slashes surrounding an

“s”, the attorney’s name and the last four digits of the filing attorney’s social security number. Having proofread the document, the attorney must then translate it to PDF format, by selecting the PDF option imbedded in the latest versions of most software packages or selecting the print option and printing to PDF, instead of paper. When filing large exhibits, the court requires that excerpts of exhibits be scanned into PDF prior to filing and attached to the document. (See court’s administrative orders on the website at [www.nysb.uscourts.gov](http://www.nysb.uscourts.gov)) It is advisable to do a careful quality check of the entire document for accuracy before sending it because once sent the document is immediately on the Internet for all to see.

After the document, including the scanned exhibits, has been checked and has been declared ready to file, the attorney “signs-on” to the electronic system and thus completes the electronic signature of the document by use of an assigned login and password. Use of the password is the legal equivalent of a signature. Since Rule 11 sanctions apply, it is of utmost importance that law firms and lawyers control the use of attorney passwords and logins. Internal controls within the law firm should be established for filing procedures and policies in order to maintain the integrity of originally signed documents and the originally produced PDF file.

The Electronic Case Filing System is fast, simple and provides the attorney with instant case information. After an initial investment in the requisite hardware and software and the expenditure of time to make the modifications necessary to adjust to the new medium, attorneys can sit back and let their fingers do the filing.

## SOME THOUGHTS ON THE LEARNING ORGANIZATION

September 29-30, 1999

We've been working hard to create an environment that encourages and supports continuous learning for everyone at all levels of the court. This includes learning how to enhance our capacity for dialogue that embraces different points of view; becoming better at learning from our experience and creating the future accordingly; understanding how our backgrounds influence our assumptions and beliefs about people and things that happen, and how those beliefs affect our perceptions, our decisions and our actions; and learning to broaden our perspective to consider a larger context of systems and events when trying to solve problems or make decisions. Given the dramatic changes in procedures, tasks and roles that have come with electronic case filing, becoming more adept at this kind of multi-faceted learning-as-we-go has been very important to us in accomplishing the legal mandate of the court and the goals set out by the Strategic Planning Committee.

The high degree of diversity in the court – in terms of personal and cultural background, job experience, personality and thinking styles – creates a multiplicity of viewpoints within the organization. Examining assumptions about colleagues who may not think alike, and trying to understand and appreciate their perspective is a subtle but effective way of addressing diversity. Part of the challenge of becoming a learning organization has been finding ways to more fully engage the wealth of experience and ideas inherent in the diversity at our court. We've been discovering that we're more intelligent, and better able to identify and resolve potential problems, collectively than we are as individuals. So we've been working to establish more channels through which a diversity of ideas can flow in all directions, and more forums for looking at what's working and what's not from a variety of viewpoints.

Specifically, our endeavor has taken, in part, the following forms:

- An approach to solving problems that taps our collective intelligence by including in the process a broader range of people connected to the problem.
- Managers' meetings to assess and reformulate their managerial skills in light of the principles and practices of the learning organization, such as engaging in learning conversations or dialogue, in which we examine our positions and the assumptions on which these positions are based.
- Departmental meetings where staff have help set performance goals, assess their own performance, and develop a learning plan to help them achieve their goals.



- A series of workshops for management and staff called, "Putting Effective Learning Skills to Work," which explored our personal responsibility for working collaboratively, understanding different learning styles, and reading and writing critically, in addition to other skills.
- A full day workshop devoted to learning and practicing the art of dialogue with 45 participants including judges, management, Chambers and Clerk's Office staff, which began to address the lines of division that get in the way of optimal learning and functioning.
- Another full day workshop in diversity, sponsored by the Federal Judicial Center, geared toward understanding how our diverse cultural backgrounds and personal styles lead us to interpret the same things in different ways, and how dialogue helps us to understand those differences and make constructive use of them.
- And, to maintain our momentum, inter-departmental dialogue groups to increase our ability to apply the principles and practices of the learning organization.

Overall, it has been a challenging endeavor to allow our thinking, our conversations, and the way we do things to be progressively more open to a learning process - so that our magnificent diversity becomes the basis for a powerful collaboration and the creation of a perpetually self-perfecting organization.